

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:19-cv-00372

Luminant Mining Company LLC,
Plaintiff,

v.

Kenneth E. Parker et al.,
Defendants.

Before BARKER, *District Judge*

ORDER

On July 26, 2019, plaintiff Luminant Mining Company LLC filed this property dispute in the Fourth Judicial District Court of Rusk County, Texas. Doc. 2. On August 15, 2019, Defendants Kenneth E. Parker and Dawud Allantu Bey removed this action to federal court. Doc. 1. Pursuant to 28 U.S.C. § 636, the case was referred to United States Magistrate Judge John D. Love. Plaintiff filed a motion for leave to amend the complaint by adding a new defendant, Amexemnu City State (Amexemnu), and to remand the case to state court under 28 U.S.C. § 1447(e) on the ground that adding Amexemnu eliminates complete diversity because Amexemnu is a citizen of Texas for diversity purposes. Doc. 7.

On September 26, 2019, Judge Love issued a report and recommendation finding that: (1) adding Amexemnu as a defendant is proper, and (2) adding Amexemnu would not eliminate complete diversity. Doc. 25. Accordingly, Judge Love recommended that the court grant plaintiff's request for leave to amend and deny plaintiff's motion for remand. *Id.* A copy of this report and recommendation was served on the parties via the court's CM/ECF electronic filing system. *See* Doc. 25. No party has objected.

The court finds "clear error on the face of the record." *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th

Cir. 1996) (en banc) (quoting Fed. R. Civ. P. 72(b) advisory committee's note (1983)), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending time to object from 10 to 14 days)). Accordingly, the report and recommendation (Doc. 25) is **adopted**. Fed. R. Civ. P. 72(b)(3). Plaintiff's motion (Doc. 7) is **granted in part** and **denied in part**. Plaintiff's request for leave to amend the complaint is **granted**, and the amended complaint (Doc. 8) is now the live pleading in this case. Defendants are **ordered** to respond to the amended complaint pursuant to the Federal Rules of Civil Procedure. Plaintiff's request for remand is **denied**.

So ordered by the court on October 22, 2019.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge